

PROPOSED PERSONAL DATA PROTECTION BILL FOR SINGAPORE

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[RESPONSE TO CONSULTATION PAPER ISSUED BY MICA]

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Part I: Introduction - Sybase 365

Sybase 365, a subsidiary of Sybase, Inc., (an SAP company; NYSE: SAP), is the global leader in enabling mobile information services for mobile operators, financial institutions and enterprises. We provide our customers with the widest offering in SMS, MMS, GRX, IPX interoperability, end-to-end mobile commerce solutions, innovative mCRM, mobile marketing and content delivery services. Sybase 365 processes more than 1.5 billion messages per day, reaching 900 operators and 4.5 billion subscribers around the world.

Sybase works with more than 200 leading FSIs and over 900 MNOs globally to enable a wide range of mobile financial services. As the leading provider of mobile messaging services globally, Sybase 365 enables interoperability between mobile payment networks with live mCommerce deployments to over than 15 million end-consumers and 20,000 merchants.

For more information, visit: www.sybase.com/365. Read our blogs: <http://blogs.sybase.com>

Part III: Comments

We would like to thank MICA for the opportunity to provide comments on the proposed Personal Data Protection Bill (the “**PDP Bill**”). We are encouraged by the positions adopted by MICA in the PDP Bill and the efforts which MICA has taken in trying to achieve a balance between the interests of individuals and businesses. We only have some comments to make in relation to the PDP Bill.

A. Proposed Amendments to "Part IX, Do Not Call Register" of the PDP Bill

1. Part V (Access to and correction of personal data)

We note that MICA has clarified in paragraph 2.94 of its consultation paper that “access and correction rights are only for information that can reasonably link the data to an individual. If the company has the ability to link the data to identify the individual, but has not done so, the organisation is not obliged to link the data and provide access rights to the individual to such identifiable data.”

We propose that these important qualifications to the access and correction rights should be expressly stated in Part V of the PDP Bill as we believe that sections 23 and 24 of the PDP Bill currently do not refer to these qualifications. We are of the view that these qualifications should be set out in Part V of the PDP Bill, and not in guidelines or subsidiary legislation.

2. Section 40 (Interpretation of this Part)

We propose that the following definition of "telecommunications service provider" should be included in Section 40 of the PDP Bill:

"telecommunications service provider" refers to any person who has been granted a license under Section 5 of the Telecommunications Act, Cap 323, to provide telecommunications systems and services.

B. Operational and Practical Considerations in relation to the DNC Registry

We understand from the consultation paper that MICA wishes to retain the "filtering approach" and the requirement for organisations to send their lists to the DNC Registry for "filtering" at least once every 30 days, in order to confirm whether any Singapore telephone number is listed in the DNC register.

While we appreciate that the implementation details of the DNC Registry have yet to be announced, we would like to raise certain operational and practical considerations that we hope will be considered and addressed at the implementation stage. By raising these considerations, we hope to help contribute to the smooth implementation of the DNC Registry and process:

- (a) The filtering process must allow for automation of the uploading and downloading of phone lists (e.g. secure FTP). This is especially important if there is a large quantity of phone numbers to be filtered. We would discourage the use of emails for the transmission of phone lists to and from the DNC operator as a number of organizations set limits on the size of attachments which can be sent to their email servers, and emails may be undelivered for numerous reasons.



- (b) The format of the files. Guidance should be provided on the format and version of the files which will be used by the DNC operator. For example, this may have practical implications if Microsoft Excel spreadsheets are used as older versions of Excel have a row limit of 65536 rows. Organisations which have large phone lists to filter should be alerted to any limitations in using any required format.
- (c) Security. There should be adequate measures to ensure that lists are transferred in a secure manner (e.g. secure FTP). Please note that even though that only phone numbers appear in the phone number lists, a number of organisations view this information as confidential and proprietary information as it identifies these numbers as belonging to their customers. As such, we believe that the sending of phone lists via emails will not be advisable.
- (d) Timeliness. The DNC operator should not take too long to filter and return the filtered list to the organization as this has an impact on the business activities of the organisation. The filtering process should only take a few minutes or slightly longer for large phone number lists.
- (e) Terms and conditions for subscription. If organisations are required to enter into an agreement with the DNC operator as a pre-condition to subscribing to the DNC Registry, we would respectfully suggest that MICA carefully considers the reasonableness of any terms and conditions that the DNC operator proposes to impose on organizations as a condition of access. These include provisions relating to confidentiality, warranties and limitation of liability. For example, in the event that there is loss caused by the DNC operator (due to a technical fault caused by the DNC operator or negligent disclosure of information to third parties), organizations should be able to pursue remedies under law against the DNC operator (as a service provider) for any loss which the organization had suffered (and this should not be unduly restricted by the agreement).

The DNC operator should also provide organisations with service levels and warranties on accuracy of the filtered phone lists as they would be providing an essential service which organisations rely upon. For example, maintenance periods should be limited to off-peak hours, and organisations should be notified weeks in advance of such maintenance.

- (f) Given that a large organization may have different departments which send out marketing messages or make marketing calls, the organisation's account with the DNC operator must allow for multiple users (at no additional cost) to be set up to access the DNC registry at any one time.

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